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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,517	06/26/2003	Timo Tokkonen	872.0147.U1(US)	9316
29683 7590 06/27/2007 HARRINGTON & SMITH, PC 4 RESEARCH DRIVE SHELTON, CT 06484-6212			EXAMINER MURRAY, DANIEL C	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/608,517	TOKKONEN ET AL.	
	Examiner	Art Unit	
	Daniel Murray	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11MAY2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 22-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 22-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26JUN2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Action is in response to Applicant's amendment filed on 11MAY2007. **Claims 1-19 and 22-44** are now pending in the present application. **This Action is made FINAL.**

Drawings

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the replacement drawing sheets were not submitted with the amendment received on 11MAY2007. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.
3. The drawings (figures 1-10) are objected to because they lack descriptive block labels.
4. Figure 10 is objected to under 37 CFR 1.83(a) because it fails to show "11" (network) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).
5. The drawings are objected to because the items represented by the reference characters "71-74" and "78-79" are not adequately represented in figure 7.
6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37

Art Unit: 2143

CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 2143

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gerba et al.** (U.S. Patent # 5,931,908) in view of **Swartzel et al.** (US Patent Publication # US 2002/0109593 A1).

a) Consider **claims 1 and 9**, Gerba et al. clearly shows and discloses a method and apparatus for providing a wireless device 34 (figure 2, column 4 lines 13-17 lines 21-30) with context sensitive information (overlay function) related to a theme (audiovisual content), the method comprising: synchronizing a network with the theme (audiovisual content)(figure 1, figure 4, abstract, column 1 lines 13-18, column 2 lines 18-40, column 3 lines 16-25), the network comprising a source of context sensitive information (overlay function)(figure 1, column 9 lines 7-16) and at least one port 24 (transaction processor) for receiving a request for context sensitive information (overlay function) from the wireless device 34 and for distributing 24 (transaction processor) context sensitive information (overlay function); requesting the context sensitive information by contacting the at least one port of the network 24 (transaction processor) with a communications port 36 (network interface) of the wireless device 34; and providing to the wireless device 34 through the at least one port 24 (transaction processor) a signal comprising the requested context sensitive information (overlay function)(figure 1, figure 2, column 8 lines 62-67). However, Gerba et al. does not specifically disclose the at least one port is disposed in association with at least one of specific goods and merchandise, or where at least requesting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port.

Swartzel et al. clearly show and disclose the at least one port (tag) is disposed in association with at least one of specific goods and merchandise (figure 1, figure 2, figure 3, figure 4, paragraph [0016], paragraph [0018]), where at least requesting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port (inherent from the teachings of

Art Unit: 2143

Swartzel et al. since the use of a portable scanner 51 would require a user to be in close proximity to the tag 20 being scanned in order to avoid interference from other RF tags 20)(figure 2, paragraph [0031]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Swartzel et al. into the system of Gerba et al. for the purpose of providing context sensitive information related to a theme (product). Such a feature would have made the overall system of Gerba et al. more efficient at communicating context sensitive information (targeted consumer message) to the consumer (paragraph [0016]).

b) Consider **claim 2**, and as **applied to claim 1 above**, Gerba et al. as modified by Swartzel et al. further teach synchronizing comprises starting a showing of a pre-recorded media (abstract lines 6-9).

c) Consider **claim 3**, and as **applied to claim 1 above**, Gerba et al. as modified by Swartzel et al. further teach the source of context sensitive information (overlay function) comprises a database 26 (figure 1, column 9 lines 7-16).

d) Consider **claim 4**, and as **applied to claim 3 above**, Gerba et al. as modified by Swartzel et al. further teach the database 26 is reachable through the Internet 28 (figure 1, column 2 lines 57-59, column 9 lines 7-16).

e) Consider **claim 5**, and as **applied to claim 1 above**, Gerba et al. as modified by Swartzel et al. further teach notifying a user of the wireless device of the availability of the context sensitive information (overlay function)(column 1 lines 39-41, column 2 lines 8-13 lines 49-50, column 5 lines 45-58).

Art Unit: 2143

f) Consider **claim 6**, and **as applied to claim 5 above**, Gerba et al. as modified by Swartzel et al. further teach the notifying comprises producing a visible icon (column 2 lines 8-13 lines 49-50, column 5 lines 45-58).

g) Consider **claim 7**, and **as applied to claim 1 above**, Gerba et al. as modified by Swartzel et al. further teach the context sensitive information (overlay function) comprises at least one of a movie clip, a music title, promotional information, contest information and advertising (retrievable information and interactive functions) (column 1 36-44, column 3 lines 1-4, column 9 lines 11-16).

h) Consider **claim 8**, and **as applied to claim 1 above**, Gerba et al. as modified by Swartzel et al. further teach a user of the wireless device 34 receives the context sensitive information (overlay function) using one of: a mobile telephone, a personal digital assistant (PDA), a pager, and a computer comprising a wireless communication interface (column 4 lines 13-17 lines 21-30).

i) Consider **claim 14**, and **as applied to claim 9 above**, Gerba et al. as modified by Swartzel et al. further teach the context sensitive information (overlay function) comprises information that is at least one of: instructional; diagnostic; price related; performance related; specification related; and, schedule related (retrievable information and interactive functions) (column 1 36-44, column 3 lines 1-4).

j) Consider **claim 15**, and **as applied to claim 9 above**, Gerba et al. as modified by Swartzel et al. further teach the context sensitive information (overlay function) comprises at least one of a movie clip; a music title; advertising material; and, promotional material (retrievable information and interactive functions) (column 1 36-44, column 3 lines 1-4, column 9 lines 11-16).

k) Consider **claims 10-13** and **as applied to claims 9 above**, Gerba et al. as modified by Swartzel et al. clearly show and disclose the claimed invention except that the protocol used to make the wireless connection is not taught.

Nonetheless, the Examiner takes Official Notice of the fact that it is well known in the art to transmit information (i.e. messages) through a wireless connection using Bluetooth, infrared (IR), radio frequency tags, or Short Message Service (SMS).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to use one of the above mentioned protocols, as known in the art, in the method taught by Gerba et al. for the purpose of optimal communication.

Claims 16-18 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sharood et al. (US Patent # US 6,934,862 B2)** in view of **Borgstahl et al. (US Patent # US 6,487,180 B1)**.

a) Consider **claim 16**, Sharood et al. clearly show and disclose a method for providing a wireless device 150 (portable tablet)(figure 1, figure 7b, figure 7c, figure 24, abstract, column 4 lines 29-38 lines 56-68, column 5 lines 1-19, column 11 lines 49-55, column 13 lines 1-22) with context sensitive information related to an operation of an apparatus (diagnostic data)(abstract, column 1 lines 37-50, column 9 lines 1-10, column 10 lines 34-53, column 20 lines 25-36, column 28 lines 59-67, column 29 lines 29-49), the method comprising: providing an apparatus comprising a network linked to at least one sensor (figure 1, figure 24, figure 26a, figure 26b, figure 27a, figure 27b, column 4 lines 65-67, column 5 lines 1-19, column 11 lines 34-47, column 27 lines 66-67, column 28 lines 1-26 lines 59-67, column 29 lines 1-8), a source of context sensitive information (figure 1, figure 24, column 1 lines 37-53, column 9 lines 1-10, column 10 lines 34-53), and at least one port for receiving a request for context sensitive information and for distributing the context sensitive information (figure 1, figure 2, figure 3, figure 4, figure 27a, abstract, column 1 lines 37-53, column 4 lines 65-67, column 5 lines 1-19, column 7 lines 39-50, column 10 lines 34-53); monitoring the operation of the

Art Unit: 2143

apparatus with the at least one sensor to produce operational data (figure 26a, figure 26b, figure 27a, figure 27b, column 11 lines 34-47, column 27 lines 66-67, column 28 lines 1-26); contacting the at least one port with the wireless device to request the context sensitive information (figure 1 figure 2, column lines 37-53, column 4 lines 65-67, column 5 lines 1-19, column 7 lines 39-50, column 10 lines 34-41, column 11 lines 49-55, column 13 lines 1-22); using the operational data to select context sensitive information (column 1 lines 37-50, column 10 lines 34-53, column 27 lines 66-67, column 28 lines 1-26, column 29 lines 59-67, column 30 lines 1-8); and providing the context sensitive information to the wireless device through the at least one port (figure 1, figure 7a, figure 7b, figure 7c, figure 24, column 1 lines 37-50, column 10 lines 34-53, column 11 lines 34-55, column 13 lines 1-22, column 26 lines 21-42). However, Sharood et al. does not specifically disclose the at least contacting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port.

Borgstahl et al. shows and discloses a personal information system using proximity based short-range wireless links (column 1 lines 28-21). Borgstahl et al. teaches a personal area network in which there is a detection zone 28 surrounding each peer 20. Wireless communication links 26 are operated on sufficiently low power to limit the communication range to close proximity (figure 1, column 4 lines 23-26 lines 35-47, column 12 lines 25-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Borgstahl et al. into those of Sharood et al. for the purpose of limiting the proximity in which the wireless devices can communicate (column 4 lines 23-26 lines 35-47, column 12 lines 25-41). Such a feature would have made the overall system of Sharood et al. more efficient by limiting the amount of interference between wireless devices.

Art Unit: 2143

b) Consider **claim 17**, and **as applied to claim 16 above**, Sharood et al. as modified by Borgstahl et al. clearly show and disclose, a method as in claim 16, except that the protocol used to make the wireless connection is not taught.

Nonetheless, the Examiner takes Official Notice of the fact that it is well known in the art to transmit information (i.e. messages) through a wireless port using Bluetooth.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to use one of the above mentioned protocols, as known in the art, in the method taught by Sharood et al. as modified by Borgstahl et al. for the purpose of optimal communication.

c) Consider **claim 18**, and **as applied to claim 16 above**, Sharood et al. as modified by Borgstahl et al. clearly show and disclose, a method as in claim 16, wherein the monitoring comprises operating a processing unit 2720 (small processor/monitoring circuit)(column 29 lines 29-49).

d) Consider **claim 39**, and **as applied to claim 16 above**, Sharood et al. as modified by Borgstahl et al. clearly show and disclose, a method as in claim 16, wherein the apparatus is deployed at a retail site (Sharood et al. teaches commercial use, i.e. a retail site)(column 1 lines 31-35, column 3 lines 66-67, column 4 lines 1-27, column 11 lines 34-35).

Claims 19, 22, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sharood et al. (U.S. Patent # 6,943,862)** in view of **Borgstahl et al. (US Patent # US 6,487,180 B1)**.

a) Consider **claim 19**, Sharood et al. clearly shows and discloses, an apparatus adapted for providing a wireless device 150 (portable tablet)(figure 1, figure 7b, figure 7c, figure 24, abstract,

Art Unit: 2143

column 4 lines 29-38 lines 56-68, column 5 lines 1-19, column 11 lines 49-55, column 13 lines 1-22) with context sensitive information related to the operation of the apparatus (diagnostic data)(abstract, column 1 lines 37-50, column 9 lines 1-10, column 10 lines 34-53, column 20 lines 25-36, column 28 lines 59-67, column 29 lines 29-49), the apparatus comprising: a processing unit for synchronizing a network with the apparatus (maintenance reminders, diagnostic data, and monitoring (i.e. temperature) would require the use of a processing unit to synchronize a network with the apparatus to provide real-time information)(column 9 lines 1-10, column 10 lines 34-53, column 28 lines 16-26 lines 59-67, column 29 lines 1-8 lines 29-49), the network comprising a source of context sensitive information and at least one port for receiving a request for context sensitive information and for distributing context sensitive information (figure 1, figure 2, figure 3, figure 4, figure 27a, abstract, column 1 lines 37-53, column 4 lines 65-67, column 5 lines 1-19, column 7 lines 39-50, column 10 lines 34-53); wherein the at least one port is adapted for providing to the wireless device a signal comprising the context sensitive information (figure 1, figure 7a, figure 7b, figure 7c, figure 24, column 1 lines 37-50, column 10 lines 34-53, column 11 lines 34-55, column 13 lines 1-22, column 26 lines 21-42); wherein the apparatus comprises an appliance and the context sensitive information includes data from a sensor of the appliance (figure 26a, figure 26b, figure 27a, figure 27b, column 11 lines 34-47, column 27 lines 66-67, column 28 lines 1-26), However, Sharood et al. does not specifically disclose the at least requesting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port.

Borgstahl et al. shows and discloses a personal information system using proximity based short-range wireless links (column 1 lines 28-21). Borgstahl et al. teaches a personal area network in which there is a detection zone 28 surrounding each peer 20. Wireless communication links 26 are

Art Unit: 2143

operated on sufficiently low power to limit the communication range to close proximity (figure 1, column 4 lines 23-26 lines 35-47, column 12 lines 25-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Borgstahl et al. into those of Sharood et al. for the purpose of limiting the proximity in which the wireless devices can communicate (column 4 lines 23-26 lines 35-47, column 12 lines 25-41). Such a feature would have made the overall system of Sharood et al. more efficient by limiting the amount of interference between wireless devices.

b) Consider **claim 22**, and **as applied to claim 19 above**, Sharood et al. as modified by Borgstahl et al. clearly shows and discloses, an apparatus as in claim 19, wherein the source comprises a remote database reachable through the Internet (column 1 lines 37-53, column 5 lines 1-19 lines 45-58, column 9 lines 5-10).

c) Consider **claim 40**, and **as applied to claim 19 above**, Sharood et al. as modified by Borgstahl et al. clearly shows and discloses, the apparatus as in claim 19, wherein the appliance comprises at least one of a freezer (figure 24, column 11 lines 34-47, column 27 lines 46-67, column 28 lines 1-15), a refrigerator (figure 24, column 9 lines 1-10, column 10 lines 42-53, column 27 lines 46-67, column 28 lines 1-15), a stove (figure 1, figure 24, column 10 lines 42-53), a microwave, a garbage disposal, a washing machine (figure 24, column 10 lines 42-53, column 26 lines 21-42), a furnace (figure 1, figure 24, column 4 lines 65-67 column 5 lines 1-5), a boiler (figure 1, column 25 lines 27-34), and a clothes dryer (figure 24, column 10 lines 42-53, column 12 lines 40-41, column 26 lines 21-42).

Art Unit: 2143

Claims 23-34 and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gerba et al. (U.S. Patent # 5,931,908)** in view of **Borgstahl et al. (US Patent # US 6,487,180 B1)**.

a) Consider **claims 23 and 28**, Gerba et al. clearly shows and discloses a method and apparatus for receiving context sensitive information (overlay function) with a wireless device 34 through a wireless communications port 36 (network interface), the method comprising: contacting a network with the wireless device 34, the network comprising a source of context sensitive information (overlay function) and at least one port for receiving a request 24 (transaction processor) for context sensitive information (overlay function) from the wireless device 34 and for distributing context sensitive information (overlay function); wherein the network is synchronized with a theme (audiovisual content)(figure 1, figure 4, abstract, column 1 lines 13-18, column 2 lines 18-40, column 3 lines 16-25); the network communicating with the wireless device 34 through the at least one port 36 (network interface) and downloading (column 1 lines 39-41 lines 49-57, column 2 lines 52-59, column 3 lines 1-6 lines 14-28, column 4 lines 21 -30, column 7 lines 4-6 lines 19-24 lines 52-56, column 8 line 17-21, column 9 lines 7-21)the context sensitive information (overlay function) to the wireless device 34 through the wireless communications port 36 (network interface). However, Gerba et al. does not specifically disclose the least contacting occurs only when the wireless device is in very close proximity or in physical contact with the at least one port.

Art Unit: 2143

Borgstahl et al. shows and discloses a personal information system using proximity based short-range wireless links (column 1 lines 28-21). Borgstahl et al. teaches a personal area network in which there is a detection zone 28 surrounding each peer 20. Wireless communication links 26 are operated on sufficiently low power to limit the communication range to close proximity (figure 1, column 4 lines 23-26 lines 35-47, column 12 lines 25-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Borgstahl et al. into those of Gerba et al. for the purpose of limiting the proximity in which the wireless devices can communicate (column 4 lines 23-26 lines 35-47, column 12 lines 25-41). Such a feature would have made the overall system of Gerba et al. more efficient by limiting the amount of interference between wireless devices.

b) Consider **claim 29**, and **as applied to claim 28 above**, Gerba et al. as modified by Borgstahl et al. clearly show and disclose the wireless device 34 waits for a command to accept or reject a download of the context sensitive information (overlay function) before downloading the context sensitive information (overlay function)(column 9 lines 21-27).

c) Consider **claim 30**, and **as applied to claim 28 above**, Gerba et al. as modified by Borgstahl et al. clearly show and disclose a user of the wireless device 34 provides a command to accept or reject a download of the context sensitive information (overlay function)(column 8 lines 44-51).

d) Consider **claim 41**, and **as applied to claim 23 above**, Gerba et al. as modified by Borgstahl et al. clearly show and disclose, the method as in claim 23, wherein very close proximity communication comprises short range wireless communication between the wireless device and the at least one port (Borgstahl et al.)(column 1 lines 18-21, column 3 lines 40- 49, column 4 lines 1-9, lines 23-26 lines 35-47, column 12 lines 25-41, column 14 lines 45-50).

Art Unit: 2143

e) Consider **claim 42**, and **as applied to claim 23 above**, Gerba et al. as modified by Borgstahl et al. clearly show and disclose, the method as in claim 23, wherein the wireless device contacts the network at a retail center (inherent in the teachings of Borgstahl et al. since point of sale (POS) terminals and automated tellers are located in retail centers)(figure 3, column 5 lines 29-37).

f) Consider **claim 43**, and **as applied to claim 28 above**, Gerba et al. as modified by Borgstahl et al. clearly show and disclose, a wireless device as in claim 28, wherein the wireless communications port is located in a kiosk (figure 14, column 13 lines 1-67, column 14 lines 1-15 lines 30-50).

g) Consider **claims 24-27, and 31-34**, and **as applied to claims 23, and 28 above**, Gerba et al. as modified by Borgstahl et al. clearly show and disclose the claimed invention except that the protocol used to make the wireless connection is not taught.

Nonetheless, the Examiner takes Official Notice of the fact that it is well known in the art to transmit information (i.e. messages) through a wireless connection using Bluetooth, infrared (IR), radio frequency tags, or Short Message Service (SMS).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to use one of the above mentioned protocols, as known in the art, in the method taught by Gerba et al. for the purpose of optimal communication.

Claims 35-38 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gerba et al. (U.S. Patent # 5,931,908) in view of Borgstahl et al. (US Patent # US 6,487,180)**.

a) Consider **claim 35**, Gerba et al. clearly shows and discloses a method for providing a wireless device 34 (figure 2, column 4 lines 13-17 lines 21-30) with context sensitive information (overlay function) related to a showing of a movie (audiovisual content), the method comprising:

Art Unit: 2143

synchronizing a network with the showing of the movie (audiovisual content)(figure 1, figure 4, abstract, column 1 lines 13-18, column 2 lines 18-40, column 3 lines 16-25), the network comprising a source of context sensitive information(overlay function)(figure 1, column 9 lines 7-16) and at least one port 24 (transaction processor) for receiving a request for context sensitive information (overlay function) from the wireless device 34 and for distributing 24 (transaction processor) context sensitive information (overlay function); and providing to the wireless device 34 through the at least one port 24 (transaction processor) a signal comprising the requested context sensitive information (overlay function) (figure 1, figure 2, column 8 lines 62-67). However, Gerba et al. does not specifically disclose that requesting the context sensitive information only by having the at least one port of the network in a touching or nearly touching engagement with a communications port of the wireless device or that the showing of a movie is in a movie theater.

Borgstahl et al. shows and discloses a personal information system using proximity based short-range wireless links (column 1 lines 28-21). Borgstahl et al. teaches a personal area network in which there is a detection zone 28 surrounding each peer 20. Wireless communication links 26 are operated on sufficiently low power to limit the communication range to close proximity (figure 1, column 4 lines 23-26 lines 35-47, column 12 lines 25-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Borgstahl et al. into those of Gerba et al. for the purpose of limiting the proximity in which the wireless devices can communicate (column 4 lines 23-26 lines 35-47, column 12 lines 25-41). Such a feature would have made the overall system of Gerba et al. more efficient by limiting the amount of interference between wireless devices. However, Gerba et al. as modified by Borgstahl et al. fails to specifically disclose that the movie is shown in a movie theater.

Art Unit: 2143

Nonetheless, the Examiner takes Official Notice of the fact that it is well known in the art that a movie can be shown in a movie theater.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to show a movie in a movie theater, as known in the art, in the method taught by Gerba et al. as modified by Borgstahl et al. for the purpose of showing a movie to a large audience.

b) Consider **claim 36**, and **as applied to claim 35 above**, Gerba et al. as modified by Borgstahl et al. show and disclose notifying a user of the wireless device 34 of the availability of the context sensitive information (overlay function)(column 1 lines 39-41, column 2 lines 8-13 lines 49-50, column 5 lines 45-58).

c) Consider **claim 37**, and **as applied to claim 35 above**, Gerba et al. as modified by Borgstahl et al. show and disclose notifying comprises producing a visible icon (column 2 lines 8-13 lines 49-50, column 5 lines 45-58).

d) Consider **claim 38**, and **as applied to claim 35 above**, Gerba et al. as modified by Borgstahl et al. show and disclose the context sensitive information (overlay function) comprises at least one of a movie clip; a music title; advertising material; and, promotional material (retrievable information and interactive functions)(column 1 36-44, column 3 lines 1-4, column 9 lines 11-16).

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Gerba et al. (U.S. Patent # 5,931,908)** in view of **Borgstahl et al. (US Patent # US 6,487,180)** in further view of **Rider et al. (US Patent # US 6,346,045 B2)**.

a) Consider **claim 44**, and **as applied to claim 35 above**, Gerba et al. as modified by Borgstahl et al. and as further modified by Rider et al. clearly show and disclose, the method as in

Art Unit: 2143

claim 35, wherein the at least one port comprises a plurality of ports, each port being located in proximity to a different theater audience seat (figure 1, abstract, column 1 lines 8-11, column 2 lines 37-44 lines 56-61, column 3 lines 40-49, column 4 lines 9-11 lines 48-52).

Response to Arguments

10. Applicant's arguments with respect to **claims 1-19 and 22-44** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Finnegan et al. (US Patent # 4,482,785) disclose: "Refrigeration Monitor System with remote Signaling of Alarm Indications"
- Estes et al. (US Patent # 4,916,439) disclose: "Remote Display Arrangement for Appliances"
- Goleman, Joel B. (US Patent # 4,028,688) discloses: "Refrigeration Unit Air Temperature Detection Alarm System"

Art Unit: 2143

- Rider et al. (US Patent US 6,257,982 B1) disclose: "Motion Picture Theater Interactive System"
- Morales, Steven A. (US Patent Pub # US 2004/0027496 A1) discloses: "Simultaneous Multi-Language Motion Picture Playback System"
- Morales, Steven A. (US Patent Pub # US 2005/0200810 A1) discloses: "Motion Picture Playback System Providing Two or More Language Soundtracks Simultaneously"
- Van Den Hamer et al. (US Patent Pub # US 2002/0033280 A1) disclose: "Self-Descriptive Data Tag"
- Godsey et al. (US Patent Pub # US 2002/0161651 A1) disclose: "System and Methods for Tracking Consumers in a Store Environment"
- Kayser et al. (US Patent # 6,089,453) disclose: "Article-Information Display System Using Electronically Controlled Tags"
- Sharood et al. (US Patent # US 6,453,687 B2) disclose: "refrigeration Monitoring Unit"
- Levin, Bruce H. (US Patent Pub # US 2002/0143320 A1) discloses: "Tracking Medical Products with Integrated Circuits"
- Durst, Jr. et al. (US Patent # US 6,542,933 B1) disclose: "System and Method of Using Machine-Readable or Human-Readable Linkage Codes for Accessing Networked Data Resources"
- Bara et al. (US patent # 6,677,857 B2) disclose: "Refrigerated Cabinet for Storing Biological Articles equipped with Means for Controlling the Cabinet Contents"


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Murray whose telephone number is (571)-270-1773. The examiner can normally be reached on Monday - Friday 0800-1700 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571)-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2143

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DCM

A handwritten signature in black ink, appearing to read "David Wiley", with a large, sweeping flourish extending from the end of the signature.A handwritten signature in black ink, appearing to read "David Wiley", with a large, sweeping flourish extending from the end of the signature.

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